

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ALLISON J. BALLOON,

Plaintiff,

Case No. 18 CV 21 jdp

v.

THE BOARD OF REGENTS OF THE  
UNIVERSITY OF WISCONSIN SYSTEM, et al.

Defendants.

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**RULE 26(f) REPORT AND PROPOSED DISCOVERY PLAN**

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The parties/counsel identified below conferred as required by Fed. R. Civ. P. 26(f) and the Court's Standing Order Governing Preliminary Pretrial Conferences, on March 6, 2018 by telephone, and respectfully submit the following report and proposed discovery plan:

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**I. Concise Statement of the Nature of the Case**

The plaintiff, Allison J. Balloon, was a graduate student and employee at the Chemistry Department at the University of Wisconsin-Madison, working toward her Ph.D. In 2012, she began her appointment as a Research Assistant in the Coon Research Group, under the direction of Professor Joshua Coon. Balloon's complaint alleges that she was dismissed from her position as a Research Assistant and, ultimately, forced to withdraw from the University of Wisconsin-Madison as retaliation for engaging in a constitutionally protected activity, namely her opposition to Coon's alleged discriminatory employment practices. The complaint alleges causes of action under Title VII and 42 U.S.C. § 1983. The defendants deny the allegations.

**II. Names of Any Related Cases**

The parties agree there are no related cases.

**III. Statement of Material Factual and Legal Issues to be Resolved at Trial**

Material facts to be resolved:

- a) The basis for Balloon's dismissal from the Coon Research Group;
- b) Whether Balloon had finished all of her coursework needed for her degree;
- c) Whether defendants Sanders and McMahon threatened termination of Balloon's employment if she did not answer questions about a flyer critical of Coon's employment practices;
- d) The reason Professor Lloyd Smith stepped down as Balloon's academic advisor;
- e) The basis for Balloon's dismissal from the Amador-Noguez Research Group;
- f) Whether Balloon's dismissal from the two research groups, her loss of income and the work environment essentially forced her to withdraw as a Ph.D. candidate;
- g) Damages.

Legal issues to be resolved:

- a) Whether Balloon engaged in a constitutionally protected activity by opposing discriminatory employment practices of Coon;
- b) Whether the defendants engaged in unlawful employment practices in violation of Title VII by terminating Balloon's employment;
- c) Whether the defendants, acting under color of law, discriminated and retaliated against Balloon in violation of 42 U.S.C. § 1983.
- d) Whether any defendants are entitled to sovereign or qualified immunity.

**IV. Description of Any Amendments to the Pleadings**

None contemplated at this time.

**V. Identity of Any New Parties to Be Added**

The course of discovery may lead to the addition of one or more defendants.

## **VI. Estimated Trial Length**

The parties estimate that the length of trial in this case will be 4 days.

## **VII. Type of Discovery Needed**

- a) The plaintiff anticipates some additional written discovery based on the answer and affirmative defenses filed by the defendants. In addition, the plaintiff anticipates taking several depositions.
- b) The defendant intends to depose the plaintiff and possibly other witnesses named by the plaintiff, and may conduct written discovery
- c) Electronically Stored Information (ESI):
  - 1. Each party will take reasonable measures to preserve ESI and documents containing information relevant to the claims and defenses of the other party, consistent with Fed. R. Civ. P. 26(b)(2)(B).
  - 2. Each party will produce ESI responsive to discovery requests in non-native format, such as hard copies, TIF, or searchable PDF files, except that emails may be produced in native format.
  - 3. Should a party seek to have ESI that was initially produced to them in non-native format produced to them in native format, the party shall make a written request to the other party that: (i) identifies the ESI; and (ii) identifies the electronic format which it seeks to have the ESI produced, along with any information that may be contained in the desired electronic format that is not in the produced form of the ESI.
  - 4. The party receiving such request for native files will respond within 30 days of receipt of the request providing the requested ESI and/or providing an explanation in writing of why it will not agree or cannot provide the requested ESI in native form.
- d) The parties agree that any discovery completed during the ERD/EEOC case may be used in the current case, as though it had been conducted in the current case. This stipulation does not affect the number of depositions or interrogatories either party is entitled to under the Federal Rules of Civil Procedure.

## **VIII. Proposed Deadlines**

The parties jointly propose the following schedule for discovery, dispositive motions, and the trial in this case:

- a) Rule 26(a)(1) disclosures: 30 days from the scheduling conference.
- b) All other deadlines according to the court's schedule

## **IX. Settlement Discussions**

The parties have attempted mediation.

Dated: March 6, 2018

Respectfully submitted,

LAWTON & CATES, S.C.  
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/s/ Daniel Bach

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